



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 4, 2011

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2011-06080

Dear Mr. Mann:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 416396 (GCA 11-0119).

The Garland Police Department (the "department") received a request for information involving two specified addresses and time intervals. You have submitted information relating to one of the specified addresses. You state the department has released some of the submitted information. You also state the department has redacted some of the submitted information pursuant to the previous determination issued under section 552.130 of the Government Code in Open Records Decision No. 684 (2009).<sup>1</sup> You claim the rest of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We assume the department has released any responsive information involving the other specified address that existed on the date of the department's receipt of the instant request for information. If not, then the department must release any such

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<sup>1</sup>Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number under section 552.130 of the Government Code.

information at this time.<sup>2</sup> See Gov't Code §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. See *id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined other types of information also are private under section 552.101. See generally Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private). You claim the information you have marked in blue is protected by common-law privacy. We find the information in question is highly intimate or embarrassing and not a matter of legitimate public interest. We therefore agree the department must withhold the information you have marked in blue under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. See *id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You claim section 552.108(a)(1) for the information you have marked in red. You state release of the marked information would interfere with pending criminal cases. Based on your representations, we conclude the department may withhold the information you have marked in red under section 552.108(a)(1) of the Government Code. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

In summary, the department (1) must withhold the information you have marked in blue under section 552.101 of the Government Code in conjunction with common-law privacy

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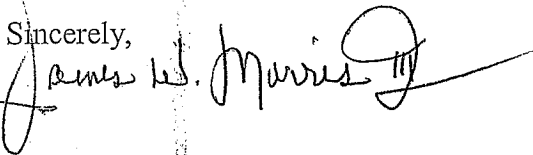
<sup>2</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

and (2) may withhold the information you have marked in red under section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in dark ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 416396

Enc: Submitted documents

c: Requestor  
(w/o enclosures)